

Message Text

LIMITED OFFICIAL USE

PAGE 01 GENEVA 06417 01 OF 03 271821Z
ACTION STR-07

INFO OCT-01 IO-13 ISO-00 STRE-00 AF-10 ARA-10 EA-10
EUR-12 NEA-10 OIC-02 AGRE-00 CEA-01 CIAE-00
COME-00 DODE-00 EB-08 FRB-03 H-01 INR-10 INT-05
L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05
SS-15 ITC-01 TRSE-00 ICA-11 SP-02 SOE-02 OMB-01
DOE-15 /168 W

-----073354 271823Z /41

P 271803Z APR 78
FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 8964
INFO ALL EC CAPITALS

LIMITED OFFICIAL USE SECTION 01 OF 03 GENEVA 06417

USMTN USEEC

STR FOR ACTION

STR PASS CODEL

E.O. 11652: N/A
TAGS: MTN, ETRD, EEC
SUBJECT: MTN: INFORMAL CONSULTATIONS WITH EC ON
- SUBSIDIES/CVD, APRIL 25-26, 1978

1. SUMMARY: U.S. DEL HELD PRODUCTIVE MEETINGS WITH
EC AND MEMBER STATES TO PRESENT U.S. SUBSIDY IDEAS
TO A WIDER EC AUDIENCE. FOLLOWUP SESSION WITH EC
WAS CONDUCTED IN AN EXTREMELY POSITIVE ATMOSPHERE, WITH
EC DEMONSTRATING INTEREST IN GETTING DOWN TO DRAFTING
OF A DOCUMENT. DELS AGREED TO MEET AGAIN IN WASHINGTON
ON MAY 8 FOR INITIAL ATTEMPT TO MERGE REVISED U.S. AND
EC PAPERS ON SUBSIDIES, COUNTERMEASURES AND PROCEDURES.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 GENEVA 06417 01 OF 03 271821Z

2. ON FIRST DAY OF INFORMAL CONSULTATIONS ON SUBSIDIES/
CVD, U.S. DEL TEAM, HEADED BY RIVERS (STR), MET WITH
EC (KLEIN) AND MEMBER STATES. OBJECTIVE OF EXERCISE
ON THE PART OF EC WAS TO DRAW MEMBER STATES INTO CON-
SULTATION PROCESS ON SUBSIDY/CVD. MEETING WENT
SMOOTHLY, CONTRARY TO KLEIN PREDICTION AFTER HIS

PRELIMINARY SESSION WITH MEMBER STATES WHEN HE CLAIMED THAT HIS SUSPICIONS ABOUT MEMBER STATES' SENSITIVITIES REGARDING THE U.S. APPROACH WERE CONFIRMED. U.S. GAVE FULL EXPLANATION OF ITS POSITION AND REVIEWED THE U.S. PAPER ON SUBSIDIES. ESSENTIAL IMPORTANCE OF AGREEMENT ON SUBSIDY/CVD FOR A SUCCESSFUL MTN WAS STRESSED BY THE U.S., GIVING PARTICULAR EMPHASIS TO U.S. DOMESTIC INTERESTS TO HAVE AN ACCEPTABLE DISCIPLINE ON SUBSIDIES BEFORE U.S. COULD CONSIDER CHANGING ITS CURRENT CVD LAW.

3. KLEIN ASKED A SERIES OF QUESTIONS ON ISSUES, WHICH HAD PREVIOUSLY BEEN COVERED IN US-EC TALKS, FOR BENEFIT OF MEMBER STATES. KLEIN CONCENTRATED ON TWO KEY AREAS: ELIMINATION OF DUAL PRICING CRITERIA FOR EXPORT SUBSIDIES AND PURPOSE OF ESTABLISHING A LIST OF DOMESTIC SUBSIDY PRACTICES. HE CONTENTDED THAT DUAL PRICING WAS A YARDSTICK BY WHICH A COUNTRY COULD MEASURE WHETHER SUBSIDIES HAD AN EXPORT EFFECT, ASSERTING THAT WITHOUT SUCH YARDSTICK NO DISTINCTION WOULD EXIST BETWEEN EXPORT SUBSIDIES AND OTHER SUBSIDIES. CONCERN OVER PROPOSED ELIMINATION OF DUAL PRICING CRITERIA WAS ENDORSED BY DUTCH REP (FEY). U.S. DEL STATED THAT ITS INTENTION IS NOT TO BLUR DISTINCTION BETWEEN DIFFERENT TYPES OF SUBSIDIES AND SUGGESTED THAT A DEFINITION AND ILLUSTRATIVE LIST WOULD HELP DELINEATE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 GENEVA 06417 01 OF 03 271821Z

BETWEEN THE DIFFERENT TYPES OF SUBSIDY PRACTICES. RIVERS NOTED THAT BILEVEL PRICING WAS NOT ALWAYS IN EVIDENCE OR READILY ASCERTAINABLE IN AN EXPORT SUBSIDY SITUATION. KLEIN SUGGESTED THAT RATHER THAN ELIMINATION OF THE CURRENT GATT PROVISION, SOME ACCOMMODATION OF DUAL PRICING CONCEPT COULD BE MADE IN ANY POSSIBLE DEFINITION OF EXPORT SUBSIDY.

4. ON DOMESTIC SUBSIDIES, KLEIN SOUGHT INDICATION OF U.S. INTENTION BEHIND ESTABLISHMENT OF A LIST OF DOMESTIC SUBSIDY PRACTICES AND QUERIED WHETHER USE OF SUBSIDIES WHICH APPEARED ON THE LIST WOULD BE CONSTRUED AUTOMATICALLY AS A NULLIFICATION/IMPAIRMENT OF A TARIFF CONCESSION. IN CAUTIOUSLY WORDED STATEMENT, KLEIN STATED THAT, UNDER ITS NEGOTIATING MANDATE, THE EC HAS NO LEGAL AUTHORITY TO NEGOTIATE ON DOMESTIC SUBSIDIES AND ASKED WHETHER U.S. WOULD BE SATISFIED WITH A GENERAL COMMITMENT NOT TO GRANT SUBSIDIES IN SUCH A WAY THAT COULD VISIBLY AFFECT TRADE, WITHOUT WORKING ON A DETAILED LIST OF PRACTICES. U.S. RESPONDED THAT THE LIST WOULD NOT PROHIBIT DOMESTIC SUBSIDIES, BUT SERVE AS GUIDELINES FOR USE IN INTERNAL PLANNING. IN THE DOMESTIC SUBSIDY

FIELD, NO AUTOMATIC CONSEQUENCES WOULD FLOW FROM THE USE OF SUCH SUBSIDIES. U.S. DEL FIRMLY STATED THAT DETAILED PROVISIONS COVERING DOMESTIC SUBSIDY WERE CRITICAL TO GAIN DOMESTIC SUPPORT FOR A SUBSIDY AGREEMENT. WHILE U.S. DEL RECOGNIZED THE SENSITIVE ISSUES INVOLVED, WITHOUT COVERAGE OF THESE DOMESTIC SUBSIDIES THERE WOULD NOT BE MUCH IN THE AGREEMENT FOR THE U.S. UK DEL (A.DELL) TOOK NOTE OF U.S. ATTEMPT TO TAKE INTO ACCOUNT COUNTRIES' SENSITIVITY IN ITS APPROACH TO DOMESTIC SUBSIDIES, BUT STATED THAT THE UK GOVERNMENT "WOULD NOT LOOK KINDLY" ON EFFORTS TO PROSCRIBE ITS SUBSIDY ACTIVITY ASSOCIATED WITH ITS INDUSTRIAL AND REGIONAL STRATEGY.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 GENEVA 06417 01 OF 03 271821Z

5. KLEIN RAISED A NEW TOPIC REGARDING PERMISSIVE APPLICATION OF CVD'S. IN HIS VIEW, DISCRETION IN CVD

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 GENEVA 06417 02 OF 03 271846Z
ACTION STR-07

INFO OCT-01 IO-13 ISO-00 STRE-00 AF-10 ARA-10 EA-10
EUR-12 NEA-10 OIC-02 AGRE-00 CEA-01 CIAE-00
COME-00 DODE-00 EB-08 FRB-03 H-01 INR-10 INT-05
L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05
SS-15 ITC-01 TRSE-00 ICA-11 SP-02 SOE-02 OMB-01
DOE-15 /168 W

-----073471 271900Z /41

P 271803Z APR 78
FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 8965
INFO ALL EC CAPITALS

LIMITED OFFICIAL USE SECTION 02 OF 03 GENEVA 06417

USMTN USEEC

STR FOR ACTION

STR PASS CODEL

CASES IS AFFORDED AT VARIOUS STAGES: INITIATION (E.G., ON BASIS OF COMPLAINT WITH EVIDENCE), INJURY INVESTIGATION, DETERMINATION OF AMOUNT OF CVD NECESSARY TO ALLEVIATE INJURY, AND FINAL DECISION WHETHER TO IMPOSE CVD. DISCRETION AT FINAL STAGE, ACCORDING TO KLEIN, IS THE ONLY WAY TO RESPOND TO DEVELOPING COUNTRY PLEAS FOR SPECIAL AND DIFFERENTIAL TREATMENT (I.E., TAKE THEIR PARTICULAR DEVELOPMENT SITUATION INTO ACCOUNT). U.S. OBSERVED THAT VARIOUS PROVISIONS ARE ALREADY CONTAINED IN U.S. ANTIDUMPING LAW WHICH ADDRESSED SOME OF THESE POINTS WHICH COULD BE EXPLORED IN A CVD CONTEXT, BUT REMARKED THAT DISCRETION HAS NOT BEEN FAVORABLY REGARDED IN THE U.S. IN THE AREA OF CVD'S. AT THIS LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 GENEVA 06417 02 OF 03 271846Z

STAGE, ABBOTT INTERJECTED FOR THE RECORD EC CONCERN REGARDING U.S. SECTION 337 CASES INVOLVING DUMPING AND SUBSIDY PRACTICES WHERE DETERMINATIONS ARE MADE WITHOUT RECOURSE TO AN INJURY TEST. HE NOTED, HOWEVER, THE U.S. OFFER ON THIS ITEM IN ITS NTM RESPONSES.

6. FLOOR WAS OPEN TO QUESTIONS FROM MEMBER STATES. DUTCH REP FOCUSED ON WHETHER AVAILABILITY OF COUNTER-MEASURES UNDER ARTICLE XXIII PROCEDURES WAS A UNILATERAL RIGHT OR SUBJECT TO A MULTILATERAL PROCESS. U.S. SAID THE LATTER, BUT THAT U.S. WAS LOOKING FOR IMPROVED DISPUTE SETTLEMENT PROCEDURES. FURTHERMORE, U.S. DEL SUGGESTED THAT A WAY COULD BE FOUND TO DOVETAIL DOMESTIC PROCEDURES WITH INTERNATIONAL PROCEDURES. GERMAN REP (LUTZ) ASKED WHETHER THE MORE THAN DE MINIMIS INJURY TEST IS STILL BEING FOLLOWED BY THE ITC AND WHETHER PRIMA FACIE NULLIFICATION IMPAIRMENT APPLIED ONLY WITH RESPECT TO COMMITMENTS ON EXPORT SUBSIDIES. UK AND DUTCH REPS QUERIED U.S. INTENTIONS WITH ITS REDRAFT OF THE GATT 1960 ILLUSTRATIVE LIST OF EXPORT SUBSIDY PRACTICES, WITH THE UK ESPECIALLY INTERESTED IN PROVISIONS REGARDING TREATMENT OF DIRECT TAX PRACTICES. U.S. RESPONDED IN GENERAL TERMS TO THESE QUERIES BUT NOTED THAT MOST QUESTIONS COULD BE PURSUED IN FURTHER DETAILED DISCUSSIONS AT A LATER DATE.

7. IN SECOND DAY'S DISCUSSION BETWEEN COMMISSION AND U.S., KLEIN DEMONSTRATED SURPRISING INTEREST IN GETTING DOWN TO DRAFTING OF A DOCUMENT ON SUBSIDIES, COUNTERMEASURES AND PROCEDURES. KLEIN PROPOSED THAT THE U.S. AND EC PAPERS, AFTER REVISION IN LIGHT OF

COMMENTS, BE MERGED ALONG THE FOLLOWING FORMAT: U.S.
GENERAL INTRODUCTION ON SUBSIDIES, COUNTERMEASURES AND
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 GENEVA 06417 02 OF 03 271846Z

PROCEDURES, GENERAL COMMITMENT ON SUBSIDIES, ARTICLE VI PROCEDURES (INCLUDING INJURY CRITERIA AND DOMESTIC PROCEDURES) AND ARTICLE XVI/XXIII PROCEDURES (INCLUDING COVERAGE OF CASES INVOLVING THIRD COUNTRY AND IMPORT SUBSTITUTION SUBSIDIES), PROVISIONS ON EXPORT SUBSIDIES, PROVISIONS ON DOMESTIC SUBSIDIES, AND ANNEXES ON DOMESTIC AND EXPORT SUBSIDIES. PRE-LIMINARY RUN THROUGH OF BOTH EC AND U.S. DOCUMENTS ALONG THESE LINES WAS CONDUCTED WITH A VIEW TO ARRIVING AT A ROUGH CONCEPT OF HOW THE PAPERS COULD BE MERGED. IT WAS UNDERSTOOD THAT BOTH SIDES WOULD WORK TOWARD HAVING A DRAFT ALONG THESE LINES AT THE NEXT BILATERAL MEETING SCHEDULED TENTATIVELY FOR MAY 8 IN WASHINGTON. U.S. DEL WENT OVER U.S. LIST OF EXPORT SUBSIDY PRACTICES SHOWING THOSE ELEMENTS IN COMMON WITH THE 1960 LISTS AND CTIP LISTS AS WELL AS NEW IDEAS. WITH RESPECT TO THE LIST OF DOMESTIC SUBSIDIES, EC READ, FOR INFORMATIONAL PURPOSES, THE PORTION OF THE EC NEGOTIATING MANDATE WHICH CLEARLY DOES NOT GIVE EC NEGOTIATING AUTHORITY ON THESE PRACTICES. KLEIN SAID THAT NO MEMBER STATES HAD YET RAISED ANY OBJECTIONS ON THIS POINT AND DID NOT RAISE ANY EC DIFFICULTIES IN PROCEEDING WITH THE EXERCISE. THE EC WAS NOT IN A POSITION TO COMMENT IN DETAIL ON EITHER LIST SINCE THEY HAD NOT REVIEWED THEM WITH THE MEMBER STATES.

8. FUTURE WORK: U.S. AND EC TENTATIVELY AGREED TO MEET NEXT IN WASHINGTON ON MAY 8 TO DISCUSS FURTHER A DRAFT MERGING THE U.S. AND EC DOCUMENTS. EC WILL UNDERTAKE TO REVISE ITS TEXT ON DISPUTE SETTLEMENT AND PROCEDURES AND THE U.S. WILL REVISE ITS SUBSIDY TEXT AS WELL AS INTRODUCE ITS IDEAS ON INJURY.

9. COMMENT: U.S. DEL BELIEVES THAT WEEK'S DISCUSSIONS WERE EXTREMELY USEFUL. U.S. DISCUSSION WITH KLEIN IN PRESENCE OF MEMBER STATES APPARENTLY HAS GIVEN HIM LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 GENEVA 06417 02 OF 03 271846Z

RENEWED CONFIDENCE TO CONTINUE NEGOTIATION EXERCISE IN A POSITIVE MANNER, AS EVIDENCED BY THE SECOND DAY'S BILATERAL DISCUSSIONS. U.S. DEL HIGHLY PLEASED THAT DRAFTING EXERCISE IS NOW BEING ENGAGED ON ALL

TOPICS IN A CONSTRUCTIVE FASHION.

10. BY PRIOR AGREEMENT BETWEEN RIVERS AND KLEIN,

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 GENEVA 06417 03 OF 03 271845Z
ACTION STR-07

INFO OCT-01 IO-13 ISO-00 STRE-00 AF-10 ARA-10 EA-10
EUR-12 NEA-10 OIC-02 AGRE-00 CEA-01 CIAE-00
COME-00 DODE-00 EB-08 FRB-03 H-01 INR-10 INT-05
L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05
SS-15 ITC-01 TRSE-00 ICA-11 SP-02 SOE-02 OMB-01
DOE-15 /168 W

-----073462 271858Z /41

P 271803Z APR 78
FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 8966
INFO ALL EC CAPITALS

LIMITED OFFICIAL USE SECTION 03 OF 03 GENEVA 06417

USMTN USEEC

STR FOR ACTION

STR PASS CODEL

BOTH SIDES AGREED NOT TO TAKE UP AGRICULTURAL SUBSIDIES
DURING THE MEETINGS REPORTED ABOVE, NOR WILL THEY BE
THE FOCUS OF DISCUSSION MAY 8 IN WASHINGTON.

11. DRAFTED BY WALLAR. CULBERT

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DOCUMENTS, SUBSIDIES, MEETINGS, FOREIGN TRADE
Control Number: n/a
Copy: SINGLE
Draft Date: 27 apr 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978GENEVA06417
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780180-0768
Format: TEL
From: GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780411/aaaaaipu.tel
Line Count: 322
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 3e40bda6-c288-dd11-92da-001cc4696bcc
Office: ACTION STR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2832223
Secure: OPEN
Status: NATIVE
Subject: MTN: INFORMAL CONSULTATIONS WITH EC ON - SUBSIDIES/CVD, APRIL 25-26, 1978
TAGS: ETRD, MTN, EEC
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/3e40bda6-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014